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TO RUEHC/SECSTATE WASHDC PRIORITY 9516
INFO RUCNASE/ASEAN MEMBER COLLECTIVE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE
RUEHBY/AMEMBASSY CANBERRA 2300
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RUEHUL/AMEMBASSY SEOUL 9365
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RUEHBS/USEU BRUSSELS
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RUCNDT/USMISSION USUN NEW YORK 2734
RHEHNSC/NSC WASHDC
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RUEAIIA/CIA WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 RANGOON 000676

SIPDIS

STATE FOR EAP AND IO; PACOM FOR FPA

E.O. 12958: DECL: 10/02/2019

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [BM](#)

SUBJECT: BURMA: DIVISIONAL COURT REJECTS AUNG SAN SUU KYI'S
APPEAL

REF: A. RANGOON 639

[B](#). RANGOON 664

[C](#). RANGOON 518

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Classified By: P/E Chief Jennifer A. Harhigh for Reasons 1.4 (b) & (d)

Summary

[1](#). (C) As expected, the Rangoon Divisional Court on October 2 upheld the lower court's conviction of Aung San Suu Kyi (ASSK), who remains under house arrest under an edict issued by Than Shwe. Her legal team will continue to contest the conviction by appealing to the Supreme Court. ASSK's legal team is also pressing ahead with ASSK's request to arrange renovations to her home, thus far without success. ASSK personal physician Dr. Tin Myo Win (Douglas) confirmed he plans to visit ASSK the afternoon of October 2. End summary.

Appeal dismissed; lawyers to seek Supreme Court "revision"

[2](#). (C) NLD Spokesman Nyan Win confirmed that the Rangoon Divisional Court October 2 rejected ASSK's appeal of her August 11 lower court conviction on charges she violated terms of her house arrest. In the appeal, ASSK's lawyers argued the country's 1974 constitution and corresponding laws are invalid and that the government therefore has no grounds to convict her or subject her to house arrest. According to Nyan Win, the judges stated "although the court accepts that the 1974 constitution is not valid...Daw Aung San Suu Kyi is guilty under the 1975 State Protection Law...so the court rejects the appeal."

[3](#). (C) Following the rejection of the appeal, ASSK's attorneys must request a "revision" before the Supreme Court within 60 days (Ref A). Nyan Win told us October 2 the lawyers are preparing the documentation now and will submit the case as soon as possible. The "revision" operates much like the appeal process; however, a citizen is guaranteed the right to an appeal but not necessarily a "revision." If the

Supreme Court rejects the "revision," a final stage of appeal is possible thereafter.

Lawyers not permitted to meet ASSK to discuss house renovations

¶4. (C) On October 1, Nyan Win told us Burmese authorities have not permitted ASSK's lawyers or an architect to meet with her to discuss renovations to her house. Police responded to the request by directing the lawyers to discuss the issue with the Rangoon City Development Committee, which they are now doing. ASSK last met with her lawyers September 24 for two hours. According to Nyan Win, she appeared in good health during that meeting.

Doctor to Visit October 2

¶5. (C) Douglas confirmed he expects to examine ASSK at her residence October 2. ASSK and her attorneys have requested Douglas receive regular access on the first Thursday of the month, as was the case prior to the Yettaw incident. However, Douglas did not meet with her as hoped October 1.

Comment

¶6. (C) The appeals court decision comes as no surprise. Despite government claims that the country has an "independent judicial system," no judge will directly contradict Than Shwe's edict, dated a day before the lower court's ruling, which remanded ASSK to eighteen months' house

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arrest. Any change in her status will be decided by the Senior General. We have no indications as yet as to his response to ASSK's direct message to him regarding dialogue on sanctions (Ref B).

¶7. (C) Although conditions of ASSK's current period of house arrest were initially billed as less restrictive (Ref C), to date the authorities have shown little flexibility in allowing ASSK to receive guests. The government has yet to reply to several diplomatic requests, including ours, for access -- which ASSK herself requested in her letter to Than Shwe; and ASSK evidently has yet to meet with an architect to discuss something as apolitical as home renovations.

DINGER